

MINIMUM PERSONNEL SECURITY STANDARDS AND  
INVESTIGATIVE PROCEDURES GOVERNING ELIGIBILITY  
FOR ACCESS TO NATIONAL SECURITY INFORMATION

ANNEX TO  
EO 12065

Pursuant to Executive Order 12065 the following minimum personnel security standards and investigative procedures are hereby established for all United States Government civilian and military personnel, consultants, contractors, employees of contractors and other individuals who require access to National Security Information (NSI) classified in accordance with section 1-1 and 4-2 of this Order. The standards and procedures established herein are minimum and the departments and agencies may establish such additional security steps as may be deemed necessary and appropriate to ensure that effective security is maintained.

PURPOSE

1. The purpose of this annex is to enhance the security protection of NSI through the application of minimum security standards and investigative procedures.

APPLICABILITY

2. The provisions of this annex shall apply to all persons (other than elected officials of the United States Government, federal judges and those individuals specifically excepted by appropriate authority) without regard to civilian or military status, form of employment, official rank or position or length of service.

GENERAL

3. The granting of access to NSI shall be controlled under the strictest application of the "need-to-know" principle and in accordance with the personnel security standards and investigative requirements set forth in this Annex. All persons given access to NSI, as a condition of obtaining that access, shall sign an agreement that they will not disclose that information to persons not authorized to receive it.

4. Criteria and requirements for security approval of a person for access to NSI controlled under Special Access Programs as defined in section 4-2 of this Order shall comply with the provisions of the Director of Central Intelligence Directive No. 1/14.

CRITERIA FOR ACCESS TO TOP SECRET NSI

5. Criteria and investigative requirements for security approval of a person for access to Top Secret NSI are as follows:

a. The individual shall be stable, trustworthy, of excellent character and discretion and of unquestioned loyalty to the United States.

b. Except where there is a compelling need and a determination has been made by competent authority as described in paragraph 7 below that every reasonable assurance has been obtained that under the circumstances the security risk is negligible:

(1) Both the individual and the members of his or her immediate family shall be US citizens. For these purposes "immediate family" is defined as including the individual's spouse, parents, brothers, sisters and children.

(2) The members of the individual's immediate family and persons to whom he is bound by affection or obligation should neither be subject to physical, mental or other forms of duress by a foreign power, nor advocate the use of force or violence to overthrow the Government of the United States or the alteration of the form of Government of the United States by unconstitutional means.

6. In exceptional cases the head of a department or agency, or his designee, may determine that it is necessary or advisable in the National interest to authorize access to Top Secret NSI prior to completion of the fully prescribed investigation. In this situation such investigative checks as are immediately possible shall be made at once, and should include a personal interview by trained security or counterintelligence personnel. Access in such cases shall be strictly controlled, and the fully prescribed investigation and final evaluation shall be completed at the earliest practicable moment.

#### EXCEPTIONS

7. The exceptions to paragraph 5.b(1)(2) above may be granted only by the head of a department or agency or his designee,

unless such authority has been specifically delegated to the head of an office or organization as set forth in inter-departmental agreements. All exceptions granted will be common sense determinations based on all available information, and shall be recorded by the agency making the exception. In those cases in which the individual has lived outside of the United States for a substantial period of his life, a thorough assessment of the adequacy of the investigation in terms of fulfillment of the minimum investigative requirements, and judicious review of the information therein must be made before an exception is considered.

#### Investigative Requirements for Access to Top Secret NSI

8. The investigation conducted on an individual under consideration for access to Top Secret NSI will be thorough and shall be designed to develop information as to whether the individual clearly meets the above criteria.

9. The investigation shall be accomplished through record checks and personal interviews of various sources by trained investigative personnel in order to establish affirmatively to the adjudicating agency complete continuity of identity to include birth, residences, education, employments and military service. Where the circumstances of a case indicate, the investigation shall exceed the basic requirements set out below to ensure that those responsible for adjudicating access eligibility have in their possession all the relevant facts available.

10. The individual shall furnish a signed personal history statement, fingerprints of a quality acceptable to the Federal Bureau of Investigation and a signed release, as necessary, authorizing custodians of police, credit, education and medical records, to provide record information to the investigative agency. Photographs of the individual shall also be obtained where additional corroboration of identity is required.

11. Minimum standards for the investigation are as follows:

a. Verification of date and place of birth and citizenship.

b. Check of the subversive and criminal files of the Federal Bureau of Investigation, including submission of fingerprint charts, and such other National agencies as are appropriate to the individual's background. An additional check of Immigration and Naturalization Service records shall be conducted on those members of the individual's immediate family who are United States citizens other than by birth or who are resident aliens.

c. A check of appropriate police records covering all areas where the individual has resided in the US throughout the most recent fifteen (15) years or since age eighteen, whichever is the shorter period.

d. Verification of the individual's financial status and credit habits through checks of appropriate credit institutions and interviews with knowledgeable sources covering the most recent five (5) years.

e. Interviews with neighbors in the vicinity of all the individual's residences in excess of six (6) months throughout the most recent five (5) year period. This coverage shall be expanded where the investigation suggests the existence of some questionable behavioral pattern.

f. Confirmation of all employment during the past fifteen (15) years or since age eighteen, whichever is the shorter period but in any event the most recent two years. Personal interviews with supervisors and co-workers at places of employment covering the past ten (10) years shall be accomplished.

g. Verification of attendance at institutes of higher learning in all instances and at the last secondary school attended within the past fifteen (15) years. Attendance at secondary schools may be verified through qualified collateral sources. If attendance at educational institutions occurred within the most recent five (5) years, personal interviews with faculty members of other persons who were acquainted with the individual during his attendance shall be accomplished.

h. Review of appropriate military records.

i. Interviews with a sufficient number of knowledgeable acquaintances (a minimum of three developed during the course of the investigation) as necessary to provide a continuity to the extent practicable, of the individual's activities and

behavioral patterns over the past fifteen years with particular emphasis on the most recent five years.

j. When employment, education or residence has occurred overseas (except for periods of less than five (5) years for personnel on US Government assignment and less than ninety days for other purposes) during the past fifteen years or since age eighteen, a check of the records will be made at the Department of State and other appropriate agencies. Efforts shall be made to develop sources, generally in the United States, who knew the individual overseas in order to cover significant employment, education or residence and to attempt to determine if any lasting foreign contacts or connections were established during this period. However, in all cases where an individual has worked or lived outside of the U.S. continuously for over five years, the investigation will be expanded to cover fully this period in his life through the use of such investigative assets and checks of record sources as may be available to the US Government in the foreign country(ies) in which the individual resided.

k. In those instances in which the individual has immediate family members or other persons with whom he is bonded by affection or obligation in any of the situations described in subparagraph 5.b.(2), above, the investigation will include an interview of the individual by trained

security, investigative or counterintelligence personnel to ascertain the facts as they may relate to the individual's access eligibility.

1. In all cases the individual's spouse shall at a minimum be checked through the subversive files of the Federal Bureau of Investigation and other National agencies as appropriate. When conditions indicate, additional investigation shall be conducted on the spouse of the individual and members of the immediate family to the extent necessary to permit a determination by the adjudicating agency that the provisions of paragraph 5, Personnel Security Standards, above, are met.

m. A personal interview of the individual will be conducted by trained security, investigative or counter-intelligence personnel when necessary to resolve any significant adverse information and/or inconsistencies developed during the investigation.

12. Where a previous investigation has been conducted within the past five years which substantially meets the above minimum standards, it may serve as a basis for granting access approval provided a review of the personnel and security files does not reveal substantive changes in the individual's security eligibility. If a previous investigation does not substantially meet the minimum standards or if it is more than five years old, a current investigation shall be required but may be limited to that



necessary to bring the individual's file up-to-date in accordance with the investigative requirements set forth in paragraph 11 above. Should new information be developed during the current investigation which bears unfavorably upon the individual's activities covered by the previous investigation, the current inquiries shall be expanded as necessary to develop full details of this new information.

13. Programs shall be instituted requiring the periodic reinvestigation of personnel provided access to Top Secret NSI. These reinvestigations will be conducted on a five year recurrent basis, but on a more frequent basis where the individual has shown some questionable behavioral pattern, his activities are otherwise suspect.

14. The scope of reinvestigations shall include as a minimum, appropriate National agency checks, local agency (including overseas checks where appropriate), credit checks and a personal discussion with the individual by trained investigative, security or counterintelligence personnel when necessary to resolve significant adverse information or inconsistencies.

15. The evaluation of the information developed by investigation on an individual's loyalty and suitability shall be accomplished under the cognizance of the head of the department or agency (or a designee) concerned by

analysts of broad knowledge, good judgment and wide experience in personnel security and/or counterintelligence. When all other information developed on an individual is favorable, a minor<sup>r</sup> investigative requirement which has not been met should not preclude favorable adjudication. In all evaluations the protection of Top Secret NSI shall be resolved in favor of the national security. The ultimate determination of whether the granting of access is clearly consistent with the interests of national security shall be an overall common sense determination based on all available information.

#### Criteria for Access to Secret and Confidential NSI

16. The criteria, and provisions for exceptions to that criteria, for access to Secret and Confidential NSI shall be the same as expressed in paragraphs 5, 6 and 7 above.

#### Investigative Requirements for Access to Secret NSI

17. The investigation conducted on an individual being considered for access to Secret NSI shall meet the following minimum requirements:

a. Verification of date and place of birth if there is reason to question information provided by the individual being investigated, or of the individuals citizenship through Immigration and Naturalization records if that individual was foreign born.

b. Check of the subversive and criminal files of the Federal Bureau of Investigation, including submission of fingerprint charts, and such other National agencies as are appropriate to the individual's background. An additional check of Immigration and Naturalization Service records shall be

conducted on those members of the individual's immediate family who are United States citizens other than by birth or who are resident aliens.

c. A check of appropriate police records covering all areas where the individual has resided in the United States during the most recent 5 year period.

d. Confirmation of the current or most significant employment (or education in the event that the individual has been a student) during the most recent 3 to 5 year period to include personal interviews with supervisors or co-workers (or in the case of a student, teachers or fellow students).

e. Interviews with a minimum of two knowledgeable acquaintances to provide to the extent practicable information concerning the individual's activities and behavioral patterns with particular emphasis on the most recent five years.

f. Review of appropriate military records.

g. A personal interview of the individual will be conducted by trained security, investigative or counter-intelligence personnel when necessary to resolve any significant adverse information and/or inconsistencies developed during the investigation.

18. The individual shall furnish a signed personal history statement, fingerprints of a quality acceptable to the Federal Bureau of Investigation and a signed release, as necessary, authorizing custodians of police, credit, education and medical records, to provide record information to the investigative agency.

Photographs of the individual shall also be obtained where additional corroboration of identity is required.

Investigative Requirement for Access to Confidential NSI

19. The investigation conducted on an individual being considered for access to Confidential NSI shall meet the following minimum requirements:

a. Check of the subversive and criminal files of the Federal Bureau of Investigation, including submission of fingerprint charts, and such other National agencies as are appropriate to the individual's background. An additional check of Immigration and Naturalization Service records shall be conducted on those members of the individual's immediate family who are United States citizens other than by birth or who are resident aliens.

b. A review of appropriate military records.

c. A check of police records covering the current or most significant areas where the individual has resided in the United States during the most recent five (5) year period.

20. The individual shall furnish a signed personal history statement, fingerprints of a quality acceptable to the Federal Bureau of Investigation and a signed release, as necessary, authorizing custodians of police, credit, education and medical records to provide record information to the investigative agency. Photographs of the individual shall also be obtained where additional corroboration of identity is required.

Draft of Executive Order

To Replace E.O. 10450

WHEREAS the national interests require that all persons privileged to be employed in the Federal Government shall be trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States; and

WHEREAS the American tradition that all persons should receive fair, impartial and equitable treatment at the hands of the Government requires that all persons seeking the privilege of employment or privileged to be employed in the Federal Government be adjudged by consistent and uniform standards which comport with the individual's right of privacy;

Now, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including sections 1101 et seq., 1304, 3301, 3333, 7301, 7311, and 7501 et seq. of Title 5 U.S.C., the National Security Act of 1947 (50 U.S.C. 401 et seq.), and the Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.), and as President of the United States, and deeming such action necessary in the national interest and in order to protect the rights of citizens seeking employment or employed by the United States, it is hereby ordered as follows:

Section 1. Revocation of E.O. 10450. This Order shall become effective 180 days after the date hereof; Executive Order 10450 of April 27, 1953, as amended, is then revoked, except that determinations made under E.O. 10450 will not have to be readjudicated.

Section 2. Purpose of the Order. The purpose of this Order is to: establish uniform standards for classifying positions as to their sensitivity; define the types of investigation conducted for making hiring, retention or access determinations under this Order; delineate the authority and responsibilities of the departments and agencies in the implementation of this Order; and establish effective oversight to assure that department and agency implementation of the policies set forth herein is consistent with the interests of the nation and the constitutional and civil rights of the individuals concerned.

To insure consistent application of the standards and procedures contained herein, there shall be established a uniform Federal Personnel Security Program operating under the policies and procedures developed by the *Office of Personnel Management* ~~Civil Service Commission~~ and the Department of Justice.

Section 3. Applicability. In addition to the departments and agencies specified in the Act of August 26, 1950, and Executive Order 10237 of April 26, 1951, the provisions of that act shall apply to all other departments and agencies of the Government. The

provisions of this Order shall apply to all executive branch agencies including any executive department, agency, or independent establishment of the United States or any corporation wholly owned by the United States, the United States Postal Service, Postal Rate Commission, and competitive service positions in the legislative branch. All other legislative and judicial branch organizations may, upon request, utilize the investigative services provided by this Order.

This Order shall not apply to the Director of Central Intelligence or the organizations constituting the intelligence community as defined by Executive Order 12036, except the Director of Central Intelligence shall prescribe standards for access to sensitive compartmented information.

Section 4. Standard for Personnel Security. The appointment or retention of each civilian officer or employee in any department or agency is contingent upon the meeting of the following standard:

The personnel security standard shall be whether or not in the interest of the United States the employment or retention in employment of the individual is advisable.

In applying this standard a balanced judgment shall be reached after giving due weight to all the evidence, both favorable and unfavorable, the nature of the position, the mission of the agency, and the value of the individual to the public service.

Section 5. Sensitivity of Positions. Each department or agency shall classify each position as either sensitive or non-sensitive.

(a) The criteria to be applied by the heads of the departments or agencies in designating a position as sensitive are:

- (1) Access to information classified as Secret or Top Secret under Executive Order 12065.
- (2) Duties involved in the conduct of foreign affairs;
- (3) Development or approval of plans, policies or programs which affect the overall operations of a department, agency or organizational component; that is policy-making or policy-determining positions;
- (4) Investigative duties, the issuance of personnel security clearances, or the making of personnel security determinations;
- (5) Duties involved in approving the collection, grant, loan, payment or other use of property or funds of high value, or other duties demanding the highest degree of public trust and confidence;
- (6) Duties involved in the enforcement of laws, or responsibilities for the protection of individuals or property;
- (7) Duties, whether performed by Federal employees or contractors, involved in the design, operation or maintenance of Federal computer systems, or access to data contained in manual or



automated files and records or Federal computer systems, when such data relates to national security, personal, proprietary or economically valuable information, or when the duties or data relate to distribution of funds, requisition of supplies or similar functions; or

(8) Duties involved in or access to areas which have a critical impact on the national security, economic well-being of the nation, or public health or safety.

(b) All other positions shall be designated as nonsensitive.

Section 6. Personnel Security Investigations.

(a) General - The appointment of each civilian officer or employee in any department or agency shall be made subject to an investigation conducted for the purpose of developing information relevant to determining whether such appointment is in conformance with the standard specified in Section 4 of this Order. The information to be obtained shall relate to the character, reputation, and loyalty of the individual under investigation.

The scope of the investigation shall be determined in the first instance according to the sensitivity of the position, but in no event shall the investigation include less than a National Agency Check, as defined by the Office of Personnel Management except that, upon the request of the head of the department or agency concerned, the Office of Personnel Management may, in its discretion, authorize a lesser investigation with respect to per diem, intermittent, temporary or seasonal employees, or aliens employed outside the United States.

(1) Sensitive Positions. The investigation to be conducted for persons who are to occupy sensitive positions shall be conducted prior to appointment, or before the individual assumes the duties of the position.

The scope of the investigation shall be determined, first, if access to classified information is involved (Section 5.(a).(1)) by the scope prescribed in the Annex to E.O. 12065; and secondly, in all other instances defined in Section 5.(a), the scope of the investigation shall consist of no less than a full field investigation, as defined by the Office of Personnel Management.

(i) In case of an emergency, a sensitive position may be filled by a person for whom the required investigation has not been completed if the head of the department, agency, or major organizational component involved, or a designee who is directly responsible to such authority, finds that such an assignment is not contrary to the national interest.

(2) Nonsensitive Positions. The investigation to be conducted for persons who occupy nonsensitive positions shall consist of no less than a National Agency Check.

If the duties of the position require access to information classified as Confidential under Executive Order <sup>12065</sup>~~11652~~, or the position is classified at Grade GS-9 or above, or an equivalent rank, the investigation shall consist of a National Agency Check and written inquiries to local law enforcement agencies, educational

institutions, former employers, supervisors and references.

The investigation may be conducted after appointment, but before access clearance is granted. The investigation for positions classified at GS-8 or below and not requiring access shall consist of a National Agency Check conducted after appointment.

(b) Investigative Responsibility. The investigation of persons entering or employed in the Federal service, including experts and consultants however employed, shall be the responsibility of the Office of Personnel Management, except in cases in which the head of a department or agency assumes that responsibility pursuant to law, or by agreement with the Office of Personnel Management.

(c) Referral of Cases to the Federal Bureau of Investigation. Whenever, during the conduct of the investigation, information is developed which indicates that an individual may have acted or been coerced, influenced or pressured to act in a manner contrary to the national interests, the case shall be referred promptly to the Federal Bureau of Investigation under guidelines promulgated by the Attorney General.

Section 7. Due Process. No person may be denied eligibility for appointment, denied appointment in the Federal service, denied a clearance, suspended or removed from a position in the Federal service by any department or agency for failure to meet the standard set forth in Section 4 of this Order without being

advised of the reasons therefore and given opportunity to respond; any such action, either proposed or approved, shall be taken in accord with applicable law and regulation.

Section 8. Determinations Related to National Security.

The reinstatement, restoration to duty or re-employment of an individual suspended or terminated under the authority granted to heads of departments and agencies by or in accordance with the Act of August 26, 1950 (5 U.S.C. 7531 et seq.), or pursuant to Executive Order 9835, Executive Order <sup>?</sup>10450, or any other security or loyalty program relating to officers or employees of the Government, shall be in accordance with the provisions of the said Act.

Section 9. Review of Unfavorable or Questionable Information Arising Subsequent to Favorable Determination. Whenever there is developed or received by any department or agency information indicating that the retention of any civilian officer or employee in the Federal service may not be in the best interests of the Government, such information shall be forwarded to the head of the department or agency concerned, or to a designee, who, after such investigation as may be appropriate, shall review or cause to be reviewed the unfavorable or questionable information, and determine whether the retention of the person concerned is consistent with the standard set forth in Section 4 of this Order.

Section 10. Program Implementation and Management.

(a) General Policy Oversight. The National Security Council shall exercise oversight over the Office of Personnel Management and the Department of Justice in the operation of the Federal Personnel Security Program.

(b) Office of Personnel Management. The Office of Personnel Management shall:

(1) issue, within 90 days of the date of this Order, a program directive which will prescribe:

(i) criteria to be used in making a determination under the standard set forth in Section 4 of this Order;

(ii) the scope of investigations conducted under this Order;

(iii) instructions related to the protection of the individual's rights;

(iv) guidelines with respect to the updating of investigation;

(v) minimum standards for the selection and training of program personnel; and

(vi) instructions dealing with the use, control, release, maintenance and disposal of investigative reports.

(2) furnish investigative support, upon request, to the legislative and judicial branches of the Government, and to all other Federal Government entities electing to be subject to the provisions of this Order;

(3) establish and maintain a security-investigation index, covering all persons as to whom personnel security investigations have been conducted under this Order, whether by the Office of Personnel Management or any department or agency of the Executive Branch. The index shall contain the name of each person investigated, adequate identifying data concerning such person, identification of the department or agency which has conducted an investigation concerning the person, or has suspended or terminated the employment of such person under the authority granted to the heads of departments and agencies by or in accordance with the Act of August 26, 1950. The Security-Investigations Index established and maintained by the Office of Personnel Management under Executive Order 10450 of April 27, 1953, shall be made a part of this Index;

(4) develop and prescribe standard forms to be used to implement the program;

(5) establish a clearing house for program management information;

(6) develop and prescribe statistical reporting procedures designed to facilitate analysis of the effectiveness of the Order; and

(7) evaluate the manner in which the Order is being implemented throughout the Federal Government, prescribe corrective action or modification to the heads of departments or agencies con-

cerning deficiencies noted, and submit to the National Security Council an annual report detailing the Office of Personnel Management's appraisal findings and the extent of department and agency compliance.

(c) Department of Justice. The Department of Justice shall:

(1) issue, within 90 days of the date of this Order, a program directive which will prescribe:

(i) guidelines for the referral of cases to the Federal Bureau of Investigation, as provided for in Section 6(b) of this Order, and establish the criteria for the use of the information developed by these investigations in the adjudication of such cases: and

(ii) guidelines with respect to the use of the polygraph, voice analyzer, or other similar technical equipment for employment screening and in the conduct of personnel investigations.

(2) provide assistance and advice to the heads of departments and agencies regarding the implementation of this Order with respect to actions taken for reasons of national security against applicants and employees.

(d) Departments and Agencies. The departments and agencies, or the heads thereof, shall:

(1) issue, within 90 days of the date of the directives cited in subsection (b)(1) and subsection (c)(1) of this Section, appropriate regulations implementing the policies and procedures of this Order.

(2) implement the program directives, policies and procedures prescribed by the Office of Personnel Management and the Department of Justice;

(3) establish a central personnel security office, responsible for adjudicating cases, granting access clearance and maintaining program records as prescribed by the Office of Personnel Management;

(4) furnish to the Office of Personnel Management information appropriate for the maintenance of the security-investigations index; and

(5) implement any corrective action or modification prescribed by the Office of Personnel Management with respect to the program appraisal responsibility.